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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,487	06/20/2003	Michael D. Kotzin	CS21975RA/10-156	6319

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EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT PAPER NUMBER

2635

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,487

Applicant(s)

KOTZIN, MICHAEL D.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9-14, 16-20 and 22 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8, 15, 21 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**EXAMINER'S RESPONSE**

1. In response to applicant's amendment filed 1-3-069, all the amendments to the specification and claims have been entered.

The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

***Claim Rejections - 35 USC § 102 & 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-4, 9-13, 16-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann (US 6104922) in combination with Matchett (US 5229764).

Baumann discloses a method and apparatus including a wireless communication device 30 with a plurality of biometric devices (330, 360, 375), collecting a biometric sample (510/610) and enabling a feature (560/670) when a biometric sample

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corresponds (540/650) to a known sample. See figs. 3 and 5-6 and col. 6 line 38 - col. 7 line 42 and col. 8 lines 10-65.

Baumann discloses a wireless communication device with a plurality of biometric sensors, but does not disclose details of selecting one of the biometric sensors.

Matchett discloses an analogous art biometric authentication system and method that may individually select one of a plurality biometric authentication devices. Selection may be made by time where one device may be tested three times a minute while another is tested ten times a minute in col. 7 lines 2-5 or selection may rely on a hierarchy of test importance where more accurate tests are given greater weight than less accurate tests in col. 7 lines 19-28. Allowing function of a cellular telephone in response to proper biometric ID is disclosed in col. 5 line 7 to col. 6 line 28.

Initially, if it is not clear that granting access or commencing communication in Baumann enables/authorizes a function/feature of the wireless communication device in claims 1, 12 and 17, then it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included this limitation in Baumann in view of Matchett disclosing enabling and disabling function of a cellular telephone in response to biometric comparison at the phone

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instead of or in addition to comparison at a remote node or base station. Further, it would have been obvious to have included selecting one of the biometric sensors in response to a condition in claims 1, 12, 18 and 21 as discloses in col. 7 of Matchett for increased reliability. Regarding claims 2 and 16, Baumann discloses controlling access to a communication system and Matchett discloses controlling power to operate features of a phone. Regarding claims 3 and 13, Baumann includes fingerprint, retinal, vocoder, palm, facial and "other types of biometric sensors" in col. 7 lines 1-16. Regarding claim 4, Matchett includes an interval in col. 7 lines 2-5. Regarding claims 9-10 and 22, col. 7 lines 19-28 of Matchett describes hierarchy bases on accuracy or reliability for selecting more reliable or accurate sensor in col. 7 lines 19-28. Regarding claims 11 and 19, col. 5 lines 16-47 of Matchett discloses a keypad entry of a security code or password to bypass or not select biometric input(s).

4. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann (US 6104922) and Matchett (US 5229764) as applied above and further in view of Prokoski (US 6850147).

Regarding claims 7 and 14, Prokoski discloses a security system that allows a user to select one or more biometric

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methods that provides the users desired level of accuracy, reliability, convenience, security and cost effectiveness. See at least the abstract and cols. 1-5.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above user selection of biometric methods in as disclosed by Prokoski to provide the users desired level of accuracy, reliability, convenience, security and cost effectiveness.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann (US 6104922) and Matchett (US 5229764) as applied above and further in view Maes (US 6016476).

Regarding claim 20, Maes discloses an analogous art security system and method with biometric sensor 40. Alternatively input may be provided by PIN or password input in conjunction with a smartcard or universal card 26. See at least cols. 5-7.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above the smart card or Maes as an obvious alternative method of input for user verification suggested by Matchett disclosing bypassing biometric input with security code input.

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***Allowable Subject Matter***

6. Claims 5-6, 8, 15, 21 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed 1-3-06 have been fully considered but they are not persuasive.

The amendment to claim 23 overcomes the 112 rejection and the amendment to claim 17 overcomes the 102 rejection, but necessitates a new 103 rejection as unpatentable over Baumann and Matchett. Applicant's argument that Matchett lacks selecting a sensor and enabling a function based on confirmation of a user by that sensor as claimed in claims 1, 12 or 17 is not persuasive because col. 7 lines 2-28 of Matchett (as pointed out in the rejection) disclose selecting a test (biometric sensor) based on a condition such as time interval or failure of a less accurate test. The paragraph bridging cols. 6-7 includes periodic prompting of biometric devices to test the user periodically to determine if access to the device is permitted. More detail of this is shown in fig. 4 and described in col. 9 lines 10-50 including selecting of one of the biometric sensor devices by periodic prompting of biometric devices and/or

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selecting one of the sensed biometric data storage devices for comparison to determine if access is to be allowed (enabled) or denied. Col. 9 line 31 and col. 47 clearly refer to a selected "one" storage device corresponding to a respective biometric sensor device. Selection of one of the multiple sensors is further shown in figs. 6A-6B and described in col. 10 line 35 - col. 11 line 15 where a biometric sensor device is selected in step 48 and col. 10 lines 49 and 55 in response to conditions such as system ready in step 43 or other external event (step 44). Note that failure of a less accurate test in col. 7 lines 19-28 is a condition that causes a prompting/selecting of a more accurate test. Individual sensor data is compared in col. 9 line 33, step 51 and col. 10 line 59. Col. 3 lines 30-44 described testing at intervals and that one such test may grant or continue to grant (enable) access.

#### **Conclusion**

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this



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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **CONTACT INFORMATION**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at [ebc@uspto.gov](mailto:ebc@uspto.gov). The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (571) 272-2600.

Facsimile submissions may be sent via central fax number 571-273-8300 to customer service for entry by technical support staff. Questions related to the operation of the facsimile system should be directed to the Electronic Business Center at (866) 217-9197. On July 15, 2005, the Central FAX Number will change to.


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Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number. Inquiries concerning only hours and location of the Customer Window may be directed to OIPE Customer Service at (703) 308-1202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571) 272-3068.

EH  
3/11/06

  
EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
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